



#21

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Group Art Unit: 3627

J. CLARKE STEVENS ET AL.

Examiner: G. O'Connor

Serial No.: 09/396,612

Filed: September 15, 1999

For: METHOD AND SYSTEM FOR AUTOMATING  
INVENTORY MANAGEMENT OF CONSUMER ITEMS

Attorney Docket No.: MEDO 5016 PUS

**APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
U.S. Patent & Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Sir:

This is a second-revised appeal brief from the final rejection of claims 1-8 and 10 in the Office Action dated December 9, 2002 and in response to the Notification Of Non-Compliance mailed September 17, 2003, and the Notification Of Non-Compliance mailed January 12, 2004.

**I. REAL PARTY IN INTEREST**

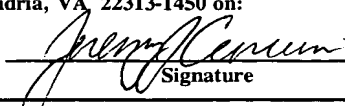
The real party in interest is Comcast Cable Communications, Inc. The original assignment in the application was to MediaOne Group, Inc. Since that time, rights in the

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January 20, 2004  
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Jeremy J. Curcuri  
Name of Person Signing

  
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invention passed to AT&T Broadband L.L.C. and then to Comcast Cable Communications, Inc.

## **II. RELATED APPEALS AND INTERFERENCES**

There are no appeals or interferences known to appellants, the appellants' legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

## **III. STATUS OF CLAIMS**

Claims 1-8 and 10-23 are pending in this application. Claims 1-8 and 10 have been rejected and are the subject of this appeal. Claim 9 has been canceled. Claims 11-23 have been withdrawn from consideration.

## **IV. STATUS OF AMENDMENTS**

An amendment after final rejection was filed on April 13, 2003 and has been entered.

## **V. SUMMARY OF THE INVENTION**

The present invention relates to a method and system for automating the management of an inventory of consumer items at a consumer location. Page 1, ll. 4-5.

With the many advances in the computer field today, many devices are becoming computerized that in the past were not computerized. For example, electronic organizers and hand-held computers are now available to the general consumer. In the future, it is expected that many household items, including appliances, will utilize computer technology to provide the consumer with smart or intelligent devices. As smart device technology is still in its early stages, there is a need for new intelligent devices that assist the user in day-to-day activities. Page 1, ll. 7-14.

The present invention provides a method and system for automating the management of an inventory of consumer items at a consumer location using a programmed device that accepts input data and executes control logic for automating inventory management. Page 1, ll. 16-19.

Figure 1 illustrates a refrigerator 10 configured to carry out the present invention. Figure 2 illustrates a computer 22 configured to carry out the present invention. Figure 9 illustrates general flow of information in carrying out the present invention, while Figure 10 illustrates control logic managing a shopping list trend and generating an output list or smart list.

As best illustrated by Figure 10, claim 1 recites a method for automating the management of an inventory of consumer items at a consumer location using a programmed device 150 accepting input data and executing instructions for automating inventory management. The method comprises receiving a series of shopping lists 170. Each shopping list 170 includes at least one item. The method further comprises establishing a shopping list trend 152 based on the series of shopping lists 170. The method further comprises generating an output list 154 in accordance with the shopping list trend 152 such that the output list 154 is predictive of a next shopping list 156. Page 2, ll. 1-9; page 2, lines 23-25. Claim 1 further recites receiving a plurality of item price lists 182 from a corresponding plurality of shopping locations 180. (Figure 7, block 112.) Claim 1 further recites recommending a shopping location 180 based on the plurality of item price lists 182 and the output list 154. (Figure 7, block 114.) Page 3, ll. 8-11.

Claim 2 further defines the receiving of a shopping list 170. Claim 2 recites determining a shopping list 170 of a shopping trip (Figure 3, block 62). Claim 2 further recites storing information indicative of the shopping list 170 on a data storage medium (Figure 3, block 64). Claim 2 further recites retrieving the information from the data storage medium

(Figure 3, block 66). Shopping list trend 152 is then established and the output list 154 then generated (Figure 3, blocks 68 and 70). Page 2, ll. 10-15.

Claim 3 further defines receiving a shopping list 170. Claim 3 recites determining a shopping list 170 of a shopping trip (Figure 4, block 74). Claim 3 recites sending information indicative of the shopping list 170 over a network (Figure 4, block 76). Figure 3 further recites receiving the information from the network (Figure 4, block 78). The shopping list trend 152 is then established and the output list 154 then generated (Figure 4, blocks 80 and 82). Page 2, ll. 16-22.

Claim 4 recites receiving at least one consumed item list 172 including at least one item that has been consumed. The shopping list trend 152 is further based on the at least one consumed item list 172. Page 2, ll. 25-29; Figure 5.

Claim 5 further defines receiving the at least one consumed item list 172. Claim 5 recites identifying an item upon consumption thereof with the item having a tag and the item being identified by recognizing the tag. Claim 6 recites that the tag is a bar code and the tag is recognized by scanning the bar code (Figure 10, bar code scanner 174). Page 2, l. 29 through page 3, l. 1. Claim 7 further defines receiving the at least one consumed item list 172. Claim 7 recites identifying an item upon consumption thereof by recognizing the item with a camera 176. Page 3, ll. 1-2.

Claim 8 recites comparing (Figure 10, compare block 158) the output list 154 with the next shopping list 156. The shopping list trend 152 is modified based on the comparison. Page 3, ll. 3-7; Figure 6.

Claim 10 further defines generating the output list 154. Claim 10 recites receiving an item list for a recipe 178. Claim 10 further recites generating the output list 154 further based on the item list for the recipe 178. Page 3, ll. 11-13; Figure 8.

## **VI. ISSUES**

1. Whether claims 1-8 and 10 are anticipated by Green et al. (U.S. Patent No. 5,664,110).
2. Whether claims 1-8 and 10 are anticipated by Kenney (U.S. Patent No. 6,026,376).
3. Whether claims 1-8 and 10 are anticipated by Petrovich et al. (U.S. Patent No. 6,101,483).

## **VII. GROUPING OF CLAIMS**

With regard to anticipation by Green, claims 1-8 and 10 stand or fall individually.

With regard to anticipation by Kenney, claims 1-8 and 10 stand or fall individually.

With regard to anticipation by Petrovich, claims 1-8 and 10 stand or fall individually.

## **VIII. ARGUMENT**

### **1. Claims 1-8 and 10 — anticipation by Green.**

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Green describes a remote ordering system. Green does not describe or suggest establishing a shopping list trend and generating an output list in accordance with the shopping list trend in combination with the other limitations recited by independent claim 1. Green only discusses custom reference lists (Col. 3, ll. 51-58). The custom reference lists discussed in Green appear to be fixed customizable lists that are not generated in accordance with an established shopping list trend as recited by independent claim 1. The claimed elements lacked by Green are not inherently described in Green as it appears that Green describes only fixed customizable lists that are not generated in accordance with an established shopping list trend. In the final rejection (paper no. 11), the Examiner responds to Applicants' arguments by referencing Col. 3, ll. 45-63 of Green. This portion of Green does refer to regularly ordered perishables, regularly ordered office products, and regularly ordered dairy products. However, there is no suggestion, either expressly or inherently, that a shopping list trend is established and an output list is generated in accordance with the shopping list trend as recited, in combination with other limitations, by claim 1. The only mention made in Green is to custom reference lists which appear to be fixed customizable lists that are not generated in accordance with an established shopping list trend. For these reasons, Green does not anticipate claim 1, and claim 1 is believed to be patentable.

Claims 2-8 and 10 recite various additional features that are believed to be further patentable subject matter. The Examiner has failed to point out specific teachings in the prior art of these various claimed features, let alone any suggestion of using the recited features in the particular combination claimed. For these reasons, the Examiner has not made a prima facie case that these claims are anticipated, and Applicants believe that these claims are patentable. **Applicants point out that claims 2-8 and 10 recite various additional features. Applicants also point out that for each of these claims, the Examiner has failed to point out a teaching of additional recited features. Because the Examiner, for each of these claims, has failed to point out a teaching of the additional recited features, these claims are believed to be separately patentable.**

Regarding claim 2, Green fails to further suggest “wherein receiving a shopping list of the series of shopping lists further comprises:

- determining a shopping list of a shopping trip;
- storing information indicative of the shopping list on a data storage medium; and
- thereafter, retrieving the information from the data storage medium.”

Regarding claim 3, Green fails to further suggest “wherein receiving a shopping list of the series of shopping lists further comprises:

- determining a shopping list of a shopping trip;
- sending information indicative of the shopping list over a network; and
- receiving the information from the network.”

Regarding claim 4, Green fails to further suggest “receiving at least one consumed item list including at least one item that has been consumed, wherein the shopping list trend is further based on the at least one consumed item list.”

Regarding claim 5, Green fails to further suggest “wherein receiving the at least one consumed item list further comprises:

- identifying an item upon consumption thereof, the item having a tag and the item being identified by recognizing the tag.”

Regarding claim 6, Green fails to further suggest “wherein the tag is a bar code and the tag is recognized by scanning the bar code.”

Regarding claim 7, Green fails to further suggest “wherein receiving the at least one consumed item list further comprises:

- identifying an item upon consumption thereof by recognizing the item with a camera.”

Regarding claim 8, Green fails to further suggest “comparing the output list with the next shopping list; and  
modifying the shopping list trend based on the comparison.”

Regarding claim 10, Green fails to further suggest “wherein generating the output list further comprises:  
receiving an item list for a recipe; and  
generating the output list further based on the item list for the recipe.”

For reasons specifically stated above, claims 2-8 and 10 are believed to be separately patentable. Note that the Examiner has not pointed out any specific teachings of any of the claimed subject matter.

2. **Claims 1-8 and 10 — anticipation by Kenney.**

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Kenney describes an interactive electronic shopping system and method. Kenney does describe a virtual shopping facility. However, Kenney does not describe or suggest establishing a shopping list trend and generating an output list in accordance with the shopping list trend in combination with the other limitations recited by independent claim 1. The Examiner has failed to point out any specific teachings of the recited limitations of claim 1, and Kenney fails to anticipate claim 1.

Claims 2-8 and 10 recite various additional features that are believed to be further patentable subject matter. The Examiner has failed to point out specific teachings in the prior art of these various claimed features, let alone any suggestion of using the recited



features in the particular combination claimed. For these reasons, the Examiner has not made a prima facie case that these claims are anticipated, and Applicants believe that these claims are patentable. **Applicants point out that claims 2-8 and 10 recite various additional features. Applicants also point out that for each of these claims, the Examiner has failed to point out a teaching of additional recited features. Because the Examiner, for each of these claims, has failed to point out a teaching of the additional recited features, these claims are believed to be separately patentable.**

Regarding claim 2, Kenney fails to further suggest “wherein receiving a shopping list of the series of shopping lists further comprises:

- determining a shopping list of a shopping trip;
- storing information indicative of the shopping list on a data storage medium; and
- thereafter, retrieving the information from the data storage medium.”

Regarding claim 3, Kenney fails to further suggest “wherein receiving a shopping list of the series of shopping lists further comprises:

- determining a shopping list of a shopping trip;
- sending information indicative of the shopping list over a network; and
- receiving the information from the network.”

Regarding claim 4, Kenney fails to further suggest “receiving at least one consumed item list including at least one item that has been consumed, wherein the shopping list trend is further based on the at least one consumed item list.”

Regarding claim 5, Kenney fails to further suggest “wherein receiving the at least one consumed item list further comprises:

- identifying an item upon consumption thereof, the item having a tag and the item being identified by recognizing the tag.”

Regarding claim 6, Kenney fails to further suggest “wherein the tag is a bar code and the tag is recognized by scanning the bar code.”

Regarding claim 7, Kenney fails to further suggest “wherein receiving the at least one consumed item list further comprises:

identifying an item upon consumption thereof by recognizing the item with a camera.”

Regarding claim 8, Kenney fails to further suggest “comparing the output list with the next shopping list; and

modifying the shopping list trend based on the comparison.”

Regarding claim 10, Kenney fails to further suggest “wherein generating the output list further comprises:

receiving an item list for a recipe; and

generating the output list further based on the item list for the recipe.”

For reasons specifically stated above, claims 2-8 and 10 are believed to be separately patentable. Note that the Examiner has not pointed out any specific teachings of any of the claimed subject matter.

3. **Claims 1-8 and 10 - anticipation by Petrovich.**

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

*Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Petrovich describes a personal shopping system portable terminal. However, Petrovich does not describe or suggest establishing a shopping list trend and generating an

output list in accordance with the shopping list trend in combination with the other limitations recited by independent claim 1. The Examiner has failed to point out any specific teachings of the recited limitations of claim 1, and Petrovich fails to anticipate claim 1.

Claims 2-8 and 10 recite various additional features that are believed to be further patentable subject matter. The Examiner has failed to point out specific teachings in the prior art of these various claimed features, let alone any suggestion of using the recited features in the particular combination claimed. For these reasons, the Examiner has not made a prima facie case that these claims are anticipated, and Applicants believe that these claims are patentable. **Applicants point out that claims 2-8 and 10 recite various additional features. Applicants also point out that for each of these claims, the Examiner has failed to point out a teaching of additional recited features. Because the Examiner, for each of these claims, has failed to point out a teaching of the additional recited features, these claims are believed to be separately patentable.**

Regarding claim 2, Petrovich fails to further suggest “wherein receiving a shopping list of the series of shopping lists further comprises:

determining a shopping list of a shopping trip;  
storing information indicative of the shopping list on a data storage medium; and  
thereafter, retrieving the information from the data storage medium.”

Regarding claim 3, Petrovich fails to further suggest “wherein receiving a shopping list of the series of shopping lists further comprises:

determining a shopping list of a shopping trip;  
sending information indicative of the shopping list over a network; and  
receiving the information from the network.”

Regarding claim 4, Petrovich fails to further suggest “receiving at least one consumed item list including at least one item that has been consumed, wherein the shopping list trend is further based on the at least one consumed item list.”

Regarding claim 5, Petrovich fails to further suggest “wherein receiving the at least one consumed item list further comprises:

identifying an item upon consumption thereof, the item having a tag and the item being identified by recognizing the tag.”

Regarding claim 6, Petrovich fails to further suggest “wherein the tag is a bar code and the tag is recognized by scanning the bar code.”

Regarding claim 7, Petrovich fails to further suggest “wherein receiving the at least one consumed item list further comprises:

identifying an item upon consumption thereof by recognizing the item with a camera.”

Regarding claim 8, Petrovich fails to further suggest “comparing the output list with the next shopping list; and

modifying the shopping list trend based on the comparison.”

Regarding claim 10, Petrovich fails to further suggest “wherein generating the output list further comprises:

receiving an item list for a recipe; and

generating the output list further based on the item list for the recipe.”

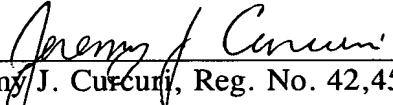
For reasons specifically stated above, claims 2-8 and 10 are believed to be separately patentable. Note that the Examiner has not pointed out any specific teachings of any of the claimed subject matter.

**IX. SUMMARY**

The Examiner has finally rejected claims 1-8 and 10 based on Green, Kenney, and Petrovich. For each reference, the Examiner has failed to point out specific techniques of the elements set forth in the claims. Because the prior art fails to suggest the claimed invention, claims 1-8 and 10 are believed to be patentable. The rejection of claims 1-8 and 10 should be reversed.

Respectfully submitted,

**J. CLARKE STEVENS ET AL.**

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Date: January 20, 2004

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Enclosure - Appendix

## **IX. APPENDIX - CLAIMS ON APPEAL**

1. A method for automating the management of an inventory of consumer items at a consumer location using a programmed device accepting input data and executing instructions for automating inventory management, the method comprising:

receiving a series of shopping lists, each shopping list including at least one item;

establishing a shopping list trend based on the series of shopping lists;

generating an output list in accordance with the shopping list trend such that the output list is predictive of a next shopping list;

receiving a plurality of item price lists from a corresponding plurality of shopping locations; and

recommending a shopping location based on the plurality of item price lists and the output list.

2. The method of claim 1 wherein receiving a shopping list of the series of shopping lists further comprises:

determining a shopping list of a shopping trip;

storing information indicative of the shopping list on a data storage medium; and

thereafter, retrieving the information from the data storage medium.

3. The method of claim 1 wherein receiving a shopping list of the series of shopping lists further comprises:

determining a shopping list of a shopping trip;

sending information indicative of the shopping list over a network; and

receiving the information from the network.

4. The method of claim 1 further comprising:

receiving at least one consumed item list including at least one item that has been consumed, wherein the shopping list trend is further based on the at least one consumed item list.

5. The method of claim 4 wherein receiving the at least one consumed item list further comprises:

identifying an item upon consumption thereof, the item having a tag and the item being identified by recognizing the tag.

6. The method of claim 5 wherein the tag is a bar code and the tag is recognized by scanning the bar code.

7. The method of claim 4 wherein receiving the at least one consumed item list further comprises:

identifying an item upon consumption thereof by recognizing the item with a camera.

8. The method of claim 1 further comprising:

comparing the output list with the next shopping list; and

modifying the shopping list trend based on the comparison.

10. The method of claim 1 wherein generating the output list further comprises:

receiving an item list for a recipe; and

generating the output list further based on the item list for the recipe.



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Sir:

Enclosed with reference to the above matter are the following documents:

1. Appeal Brief in triplicate.
2. Additional copy of this transmittal for Deposit Account purposes.

The fee of \$320 as applicable under the provisions of 37 C.F.R. § 1.17(c) was enclosed with the original brief. The fee of \$110 for a one month extension of time was also enclosed with the original brief.

The period for response runs from the initial Notification of Non-Compliance mailed September 17, 2003. Applicant hereby petitions for an extension of time under 37 CFR 1.136(a) in order to file this fully responsive reply in the form of a second-revised appeal brief. The Office is hereby authorized to charge the extension fee of \$950.00 for a three month extension of time to Deposit Account No. 02-3978 to extend the response period to January

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January 20, 2004  
Date of Deposit

Jeremy J. Curcuri  
Name of Person Signing

Signature



20, 2004. Please charge any additional fee or credit any overpayment to Deposit Account No. 02-3978.

Respectfully submitted,

**J. CLARKE STEVENS ET AL.**

By:   
Jeremy J. Curcui, Reg. No. 42,454  
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